

Exhibit B

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

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3 TOWN OF BABYLON, NY, ET AL., 22-CV-1681 (KAM)
4 Plaintiffs, United States Courthouse
5 - versus - Brooklyn, New York
6 May 3, 2022
4:00 p.m.

7 LETITIA JAMES In Her
8 Official Capacity As the
Attorney General for the
State of New York,
9 Defendant.

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11 TRANSCRIPT OF CIVIL CAUSE FOR PREMOTION CONFERENCE
12 PARTIES PRESENT VIA TELECONFERENCE
BEFORE THE HONORABLE KIYO A. MATSUMOTO
13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES

15 Attorney for Plaintiff: TATE, GROSSMAN & KELLY
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18 Attorney for Defendant: STATE OF NEW YORK
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20 BY: ANDREW STUART AMER, ESQ.

21
22 Court Reporter: LINDA D. DANELCZYK, RPR, CSR, CCR
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25 Proceedings recorded by mechanical stenography. Transcript
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LINDA D. DANELCZYK, RPR, CSR, CCR
Official Court Reporter

1 hear from plaintiff on this.

2 MR. AMER: I'll be very brief, Your Honor. I think
3 I heard Mr. Tate say he agreed that under *Armstrong* there's no
4 right of action under supremacy clause, so I'm looking at the
5 amended complaint, I don't see a cause of action as they've
6 asserted under any other theory.

7 And I would just mention that this case is very odd
8 in that it's a federal preemption claim that's being asserted,
9 but there's no federal statute that's being relied on, instead
10 it's a constitutional provision, and that's ordinarily not
11 anything you'd see as the basis of federal preemption.

12 If you want to just assert in 1983 claim alleging
13 that constitutional violation, that's a 1983 cause of action
14 in this complaint, so I'll just leave it at that and go
15 through a more careful analysis in our papers.

16 I did want to just ask for clarification. I know
17 Your Honor said you want two courtesy copies delivered to
18 chambers. Do you want those copies on the specific dates that
19 the papers are each due, or do you want the copies of the
20 entire motion fully briefed after it's going to be fully
21 briefed and filed on ECF on June 24th?

22 THE COURT: Thank you for asking.

23 I think we'd like to have them as you're serving
24 them, because it will give us a check on the progress of the
25 briefing.

1 And, you know, I'll be frank with you, this is one
2 of over 400 cases that I'm dealing with, so I will get to as
3 soon as I can.

4 We're hoping to have some new judges appointed at
5 some point but we're down three judges still. So we are
6 carrying extremely heavy caseloads, and your motion will be
7 decided in the time frame that is prescribed by the
8 Administrative Office for U.S. Courts, so we will get to it,
9 but I can't promise you that you're going to have a decision
10 by the end of the year.

11 So we'll do our best, but if you give us the -- if
12 you serve us with your courtesy copies, we'll know that we
13 have them and we don't have to bother you when we are in the
14 throes of trying to decide the motion.

15 MR. AMER: Thank you, Your Honor, for the
16 clarification.

17 THE COURT: All right, is there anything else the
18 parties want to discuss before we adjourn?

19 MR. TATE: Just one brief matter, Judge, it's Mark
20 Tate.

21 So the Court -- the defendant will now be heard on
22 the 12(b)(1) and 12(b)(6) motion to dismiss exclusively, and
23 we will have then -- the plaintiffs will then have the
24 opportunity to fully brief and reply to the Court on all of
25 those elements regarding subject matter jurisdiction and the